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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,952	12/06/2000	Amit Gal-on	1268-107	7377

7590 07/30/2003

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EXAMINER

HELMER, GEORGIA L

ART UNIT	PAPER NUMBER
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1638

DATE MAILED: 07/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/647,952

Applicant(s)

GAL-ON, AMIT

Examiner

Georgia L. Helmer

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1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6,10-12,15 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6,10-12,15 and 20 is/are rejected.
- 7) ☒ Claim(s) 6, 11, 12, and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Status of the Claims

1. The Office acknowledges receipt of Applicants Response; dated 30 April 2003, paper number 15.
2. Applicant has cancelled claims 3-5 and 7, and amended claims 1, 2, 6, 10, 11, 12, 15 and 20.
3. Claims 1, 2, 6, 10-12, 15, and 20 are pending, and are examined in the instant action.
4. This action is made FINAL necessitated by Applicant's amendment.
5. All rejections not addressed below have been withdrawn.
6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Objections

7. Claims 6, 11, 12 and 20 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim is drawn to "any of" claims "1 and 2", "any of" claims "1, 2 and 6", "any of" claims "1, 2, 6, 10 and 11", "1, 2, 6, 10, 11 and 12". This language needs to be amended to delete "any of" and replace "and" with "or". See MPEP § 608.01(n).

Claim Rejections - 35 USC § 112, s cond paragraph

8. Claims 1, 2, 6, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite. To the extent that this is a new rejection, it is necessitated by Applicant's amendment.

Claims drawn to "recombinant construct" to the extent that they depend on any claim other than claim 2, lack antecedent basis.

Claim Rejections - 35 USC § 102

9. Claims 1-6, 11, 12,15 and 20 remain rejected under 35 U.S.C. 102(b) as being anticipated by Huet, et al. (Mutations in the helper component protease gene of zucchini yellow mosaic virus affect its ability to mediate aphid transmissibility. J. General Virology, vol 75, 1994, pages 1407-1414).

Applicant traverses, stating primarily that claim 1 as currently amended is directed to a construct "...a full length clone characterized by a single mutation...". That the word single means one only, one and no more.

Applicant's traversal has been considered and is unpersuasive because there is no reference point to determine what is different one from the other. Applicant needs a SEQ ID NO: or definite frame of reference.

Remarks

10. No claim is allowed.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

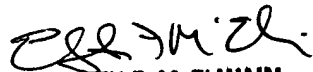
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Georgia L. Helmer whose telephone number is 703-308-7023. The examiner can normally be reached on 8:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 703-306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Georgia Helmer PhD
Patent Examiner
Art Unit 1638 – Transgenic Plants.
July 18, 2003


ELIZABETH F. McELWAIN
PRIMARY EXAMINER
GROUP 1800